Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

L. P. MACHULAS,

Appellant,
pro se.

v.

ALVIN OVERCAMP,

Appellee.

On Petition For Writ Of Certiorari
THE SUPREME COURT OF THE STATE OF DELAWARE

PETITION FOR WRIT OF CERTIORARI
THE SUPREME COURT OF THE STATE OF DELAWARE

LEONARD P MACHULAS
2 N WILSON AVE
DOVER, DE 19901
302 736-5557

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29 pp

Question(s) Presented

The lower courts did not read the plaintiff's complaint and refused, in court, to let him state the issues of the complaint.

The Court of Common Pleas did not read the plaintiff's complaint and would not let him state his claim, with a de nova trial or permit him to speak first, Rule 72.3, Pa 8.

If this court reads the defendant's answering brief on appeal, dated August 2, 2001, for the Court of Common Pleas, he does not answer the misuse of the state law of interest, misuse, location, business, etc. of escrow deposits. Rule 25 Codes, Pa 22

The Superior Court did not look at the whole case. The plaintiff had twelve issues to be settled. He only did one. Judge H. Ridgeley dismissed the appeal. Pal 4 and when the plaintiff asked for reconsideration, it was denied. Opinion B-12A

The defendant's attorney was untimely late in answering the complaint. The court should have given the plaintiff a judgement by default and given sanctions by Court Rule 107E. Pa13.

Judge Ridgeley dismissed his appeal, Pa14 when he asked for reconsideration of the Superior Court, he was denied. He wrote another letter to the court, Pa18, asking for a ruling on the other items, such as the following:

1. The conflict of interest, Ethics Rule 7-1-2-3 – PAA
2. The defendant's brief was untimely, 9 days late, Rules 107.E and 59E. Pa13
3. The plaintiff needed to know if this brief was used in the decision. Pa18
4. The plaintiff asked the court to listen to the Court of Common Pleas hearing on how he was intimidated, scared and threatened. Transcript
5. The Court of Common Pleas went against it's own Rule 72.3 – the procedures, no new trail de nova, and going first to state his claim. Pa8 & Pa8a

6. The plaintiff asked the courts – Superior, Court of Common Pleas and the Justice of the Peace of Court to look at the Artisans' bank statement to see how it was used as a business account and was closed in 1997. Pa 22
7. The wrong docket case, J0005-36616. The Judge was given a copy of it, Pa2 at the Court of Common Pleas and it was used against the plaintiff.
8. No interest of the escrow account, no security deposits account at Artisans' Bank, Pa 22.
9. The escrow deposit – where is it now, not when. Pa3a
10. Asked if he had gone to the wrong court. Went to Justice of the Peace Court 16 and should have gone to Justice of the Peace Court 7 for criminal fraud. The Superior Court did not support the rule for de nova 72.3 and did not reply. Opinion B
11. The defendant denied all five charges of the complaint. Pa 19D

The Supreme Court of Delaware did not address all the issues on Appeal. They stated the plaintiff's case is without merit. Opinion A

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

LEONARD P. MACHULAS - PETITIONER

VS

ALVIN OVERCAMP - RESPONDENT(S)

702 Dundee Road
Dover, DE 19904
302-697-2472

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below

OPINIONS BELOW

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at
APPENDIX A – to the petition and is
reported at THE SUPREME COURT OF THE STATE OF DELAWARE

The opinion of the SUPERIOR COURT ORDER STATE OF DELAWARE
appears at **APPENDIX B**

The opinion of the COURT OF COMMON PLEAS
APPENDIX C

JURISDICTION

[ ] For cases from **state courts:**
The date on which the highest state court decided my case was Feb. 20, 2002
A copy of that decision appears at Appendix A

The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a)

CASES CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PAGE NUMBERS

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STATUTES AND RULES

State of Delaware-Landlord Tenant Code---Rule 25 Appendix A Page22
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Rule 3-C 20 days to answer the brief complaint PA 13
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Rule 25-5514-3B Disclose Location of Account Page26
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STATEMENT OF THE CASE

This appeal is not about the escrow deposit; it is about the fraudulent criminal misuse of the escrow deposit account and other Delaware State Laws that were broken. The other items, for example, were using it for business, no interest, and having no security account. When asked about its location, was told that it was in Artisans' Bank; however, it had actually been closed for three years prior. Pa22

The defendant's Reply Brief was nine days late to the Superior Court, with no action taken against them. The three state courts also overlooked the conflict of interest complaint. Pa13

In Pa1 and Pa2, the plaintiff stated this is criminal fraud, in his complaint, by Delaware State Law Code, which was overlooked.

The court ruled that the lease was still in effect on July 2, 2000. The landlord was remiss in not returning the plaintiff's share of the security deposit and in not having his ex-wife sign a new lease and give a security deposit in her name. The plaintiff moved out in October of 1998; he is still on the lease. This is in violation of Rule 25. 5514a

STATEMENT OF FACTS

The plaintiff filed a complaint for criminal fraud of the Delaware State Code book of the Landlord/Tenant Rule, 25-5414. Pa22

This complaint is not about the security deposit, it is about the misuse of the escrow deposited and other items from the Code of Law. Pa22-5514

The Judge ruled the rental agreement is still in effect and the security deposit should not be returned. The Judge was misled, by the defendant, of the complaint and did not address the criminal fraud charges. The Judge refused to let the plaintiff state his claim when he tried to talk. Pa22-Pa1a

The plaintiff filed another complaint for criminal fraud and again, the Judge stated that it had been adjudicated before and refused to let the plaintiff state his claim when he tried to talk again. Pa2

The plaintiff filed a motion hearing and received a default judgment. The defendant filed a motion hearing and at that hearing, the default judgment was dismissed. Again, the plaintiff was not allowed to state his claim when he tried to talk. Pa2aB

The plaintiff filed an appeal at the Court of Common Pleas, under the Rule 72.3 to get a "de Nova" for a new trial and to go first to plead his case. This did not happen. The plaintiff was intimidated, scared and threatened in this court, by Judge Trader, when he said, "If you appeal this decision, you'll be in deep trouble, if you do." This is a violation of my civil rights. The transcript TS1 will show this comment. If the court reads this transcript, it will understand how the plaintiff was treated. Pa3a

The defendant demanded a Bill of Particulars for the Justice of the Peace Court 16; a copy of this was sent to him on September 2, 2000. He knew what the complaint was about – the escrow deposit – when he went to Court of Common Pleas. He denied all the items in Pa19 and Pa19O.

The lower courts did not read the plaintiff's complain and refused, in court, to let him state the issues of the complaint.

The Court of Common Pleas did not read the plaintiff's complaint and would not let him state his claim, with a de nova trial or permit him to speak first, Rule 72.3. Pa2

If this court reads the defendant's answering brief on appeal, dated August 2, 2001, for the Court of Common Pleas, he does not answer the misuse of the state law of interest, misuse, location, business, etc. of escrow deposits. Rule 25 Codes.

The Superior Court did not look at the whole case. The plaintiff had twelve issues to be settled. He only did one. Judge H. Ridgeley dismissed the appeal. Pa And when the plaintiff asked for reconsideration, it was denied. Pa

The defendant's attorney was untimely late in answering the complaint. The court should have given the plaintiff a judgment by default and given sanctions by Court Rule 107E. Pa13, Pa14.

Judge Ridgeley dismissed his appeal, Pa14, when he asked for reconsideration of the Superior Court. He was denied. He wrote another letter to the court, Pa18, asking for a ruling on the other items, such as the following:

The Supreme Court of Delaware also did not address all the issues, on appeal. They stated the plaintiff's case is without merit.

1. The conflict of interest, Ethics Rule 7-1-2-3. PAA-1
2. The defendant's brief was untimely, 9 days late, Rules 107.E and 59E. – Pa13
3. The plaintiff needed to know if this brief was used in the decision. Pa18
4. The plaintiff asked the court to listen to the Court of Common Pleas hearing on how he was intimidated, scared and threatened. TS-1

5. The Court of Common Pleas went against its own Rule 72.3 – the procedures, no new trail de nova, and going first to state his claim. Pa8 and 8a
6. The plaintiff asked the courts – Superior, Court of Common Pleas and the Justice of the Peace Court to look at the Artisans' bank statement to see how it was used as a business account and was closed in 1997.
7. The wrong docket case, J0005-36616. The Judge was given a copy of it, Pa2, at the Court of Common Pleas and it was used against the plaintiff.
8. No interest of the escrow account; no security deposits account at Artisans' Bank,
9. The escrow deposit – where it is now, not when. Pa3A
10. Asked if he had gone to the wrong court. Went to Justice of the Peace Court 16 and should have gone to Justice of the Peace Court 7 for criminal fraud. The Superior Court did not support the rule for de nova 72.3 and did not reply.
11. The defendant denied all five charges of the complaint. Pa19D

The Supreme Court of Delaware did not address all the issues on Appeal. They stated the plaintiff case is without merit.

REASONS FOR GRANTING THE PETITION

The plaintiff talked to the State Consumer Protection Unit of the Attorney General's office. He told them his story and they said he should file a complaint at the Justice of the Peace Court after writing to the defendant. He did so on March 1, 2000. Pa3 He asked for the location of the escrow deposit and was told that it was in Artisans' Bank. This account was closed in 1997. The escrow check number 372 was cashed at the Wilmington Trust bank. Pa4, in 1994.

The plaintiff filed a complaint for criminal fraud in the Justice of the Peace Court #16, J0005036616 for misuse of the escrow deposit, on July 5, 2000. At the hearing, he tried to tell Judge E. Arndt why he was there. He (Judge Arndt) apparently got confused and ruled on the rental lease. The plaintiff knew that the lease was still in effect. Judge Arndt refused to let the plaintiff speak. Judge Arndt denied the complaint.

The plaintiff went to the Justice of the Peace Court and told the clerk that he wanted to appeal this decision. She told him to go to the Court of Common Pleas. He went to the Civil Section, where a clerk informed him that that court does not handle Landlord/Tenant cases. He returned to Justice Of The Peace Court #16 and that clerk told him to file another complaint, which he did. The court clerk again misled him.

He filed this complaint, Docket #J000802816, for criminal fraud. At the hearing, Judge Arndt refused to let him plead his case or even talk at all. He ruled that it was adjudicated previously. The plaintiff tried to talk and was silenced. He denied the complaint again. Pa2

The plaintiff filed a motion hearing on March 27, 2000 and was granted a default judgment on docket J000802816. Pa5 The defendant filed for a motion hearing on November 16, 2000. Judge Arndt dismissed the plaintiff's default judgment because, he stated, that it had been adjudicated before. Again, the plaintiff was not permitted to speak. Pa6

The defendant demanded a Bill of Particulars for the Justice of the Peace Court 16; a copy of this was sent to him on September 2, 2000. He knew what the complaint was about – the escrow deposit – when he went to the Court of Common Pleas. He denied all the items in Pa19 B and Pa 19 C

On March 9, 2001, the plaintiff filed for a motion hearing. Again, it was denied and, again, he was not allowed to

speak. In this order, it states that it should be filed as an appeal in a higher court. Pa7

The plaintiff went to the JUSTICE OF THE PEACE Court clerk again and told her that he wanted to file an appeal again. She told him to go back to the Court of Common Pleas Civil Section again. He did and told the clerk his story and that he was tired of the run-around. She said that she would speak to Judge M.C. Trader. After a few days, she called him and stated that the court would handle this appeal with a new trial de nova and he would be allowed to plead his case first, as the plaintiff, under Rule 72.3. He filed his appeal and sent a copy of the complaint to the defendant. He received a reply by Steven Schwartz, Esquire. The plaintiff had previously discussed this matter with Mr. Schwartz. Since the plaintiff was still living there, Mr. Schwartz advised him to do nothing because it could cause problems for him. The plaintiff followed his advice.

The plaintiff went and told the Court Clerk about this and that it was a conflict of interest for Mr. Schwartz. The clerk told him to tell the Judge immediately. Rule 7.1

On May 25, 2001, the plaintiff tried to speak first and Judge M.C. Trader stopped him and said he could speak later. Pa8 and Pa9.

Judge Trader started talking to Mr. Schwartz about the case, about Mr. Schwartz's interpretation of the ruling, where to find other rulings, what the rulings meant and if Mr. Schwartz thought it applied. Under the Court of Common Pleas, Rule 72.3, the plaintiff was allowed to have a new trial and to go first to plead his case. This was not permitted. This conversation, between Judge Trader and Mr. Schwartz, intimidated the plaintiff.

Judge Trader apparently passed two motions without the plaintiff being able to speak about them. The plaintiff was there for Docket J0008023816 Pa2. Judge Trader ruled on the wrong complaint. Pa1

The plaintiff appealed his case to the Superior Court and asked the Court to rule on many items, Pa12, in his complaint. He also asked for an oral hearing. This was denied and the Court ruled on only one item. The plaintiff asked the court to reconsider and answer the other items import to his case. The Court refused and that is why he appeals to the Supreme Court, which was denied. PA14

The Superior and Supreme Courts, of the State of Delaware, overlooked the abused discretionary judgment of Judge M.C. Trader without investigating the charges brought against him by the plaintiff. Under Delaware law, the plaintiff must go first to state his charges; Judge M.C. Trader denied this. Then Judge Trader and the defendant's attorney, Steven Schwartz, collaborated on the aspects of the case. Judge Trader even asked Mr. Schwartz's advice. He then made a decision without permitting the plaintiff to say anything. The plaintiff attempted to tell Judge Trader that there was a conflict of interest because he had previously discussed this case with Mr. Schwartz and had taken his advice not to take this case to court.

The plaintiff turned in a rebuttal to the defendant's brief to the Supreme Court of Delaware. They refused to take it because of Rule 25a. However, Judge M.C. Trader had abused his discretionary judgment because of the above reasons; therefore, this rule does not apply. The lower courts have overlooked a controlling legal precedent, principles and misinterpretations of the law and the facts of this case, from the laws of the State of Delaware, that affect the outcome.

The plaintiff told the Supreme Court and the Court of Common Pleas, and the Superior Court about the conflict of interest charges, the 3 counts, overlooked this fact, also, the charge of criminal fraud.

The Superior Court did not address the 12 other items of the complaint; it just looked at the Court of Common Pleas decision. They did not follow up. They would not rule on the other items in the appeal. The plaintiff asked if the defendant's brief was used in its decision because it was untimely to the court (9 days late) PA 13. The Conflict of Interest charges were not ruled on.

The court ruled that the lease was still in effect on July 5, 2000. The landlord was remiss in not returning the interest or the location of the escrow account, PA 3.

The plaintiff filed his appeal to the Superior Court with 8 items to be addressed, none were addressed at all, Page 10A.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

PLAINTIFF

L.P. MACHULAS — PRO SE
2 N. WILSON AVE
DOVER, DE 19901
302 736 5557

VS

DEFENDANT
ALVIN OVERCAMP
702 DUNDEE ROAD
DOVER DE 19904
302 697 2072

Civil Action No. 01A-06-001 HDR
HDR

RECEIVED AND FILED
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NOTICE OF APPEAL

The party making this appeal is L.P MACHULAS Plaintiff, before the SUPERIOR COURT OF THE STATE OF DELAWARE

The appeal is from the CONAT OF COMMON PLEAS Board's decision dated MAY 25, 2001. The grounds for the appeal are as follows:

(1) CONFLICT OF INTEREST OF JUDGE AND LAWYER — RULE 1.7
(2) JUDGE TALK TO LAWYER FIRST, THEY KNOW EACH OTHER, PLAINTIFF AT A GREAT DISADVANAGE
(3) PLAINTIFF NOT ALLOWED TO STATE HIS CLAIM, AT ALL, ABOUT FRAUD
(4) DE NOVO — WRONG CASE — J000 8023316 — NOT J000503 6616
(5) LAWYER USE OLD COURT ORDER — TO STOP NEW TRAIL AT CCP
(6) PLAINTIFF MISLED BY J.P. COURT CLERK
(7) JUDGE FRIGTEN PLAINTIFF — NOT TO APPEAL THIS TO CCP
(8) PLAINTIFF FEELS HE TALKED TO JUDGE E. ARNDT, J.P. I HAVE AN ETHICES COMPLAINT AGAINST HIM ABOUT THIS CASE.

THIS IS WHAT I FILED. THIS APPEAL WAS FOR THE SUPERIOR COURT ITEMS. CONFLICT OF INTEREST

The appeal is being taken to the Superior Co of Delaware in and for Kent County.

Dated: JUNE 6 2001

cc TO OVERCAMP
BY REG MAIL

Pa 12 A

CONCLUSION

The plaintiff is seeking a just verdict from this Honorable Court, referring to the miscarriage of justice done to him under the Rules of the Courts that were not enforced and to resolve the disagreements of the lower court about the specific legal issues.

This action decided adversely to the plaintiff, prior adjudication rules for the courts to follow, this was not done in this case.

Respectfully submitted,

Leonard P. Machulas
2 North Wilson Avenue
Dover, Delaware 19901

Plaintiff/Pro Se

Dated: June 25, 2002

APPENDIX

OPINION A

THE SUPREME COURT OF THE STATE OF DELAWARE

SUPREME COURT OF DELAWARE
DOCKET 602-2001
RECONSIDERATION

L.P. MACHULAS – APPELANT
vs

ALVIN OVERCAMP – APPELLEE

Submitted: February 15, 2002
Decided: February 20, 2002

Before **HOLLAND, BERGER** AND **STEELE**, Justices

ORDER

This 20th day of February, 2002, the Court having carefully considered Appellant's document entitled "Reconsideration in Support of Plaintiff's Appeal," deemed to be a motion for reargument of the Court's Order dated February 11, 2002, and it appearing that the same should be denied;

NOW, THEREFORE, IT IS ORDERED that Appellant's Motion be, and the same hereby is, DENIED.

BY

THE COURT:

_____

Justice

SUPREME COURT OF DELAWARE
DOCKET 602-2001
APPEAL FROM SUPERIOR

L.P. MACHULAS – APPELLANT
vs

ALVIN OVERCAMP – APPELLEE

SUBMITTED: December 20, 2001
DECIDED: February 11, 2002

Before **HOLLAND, BERGER** and **STEELE**, Justices

ORDER

This 11th day of February 2002, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) The appellant, L.P. Machulas, has filed this appeal from a Superior Court decision that affirmed the Court of Common Pleas' dismissal of Machulas' appeal from the Justice of the Peace Court. The appellee, Alvin Overcamp, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Machulas' opening brief that the appeal is without merit.

(2) In April 2000, Machulas filed a civil complaint in the Justice of the Peace Court to recover a security deposit held by Overcamp ("Complaint I"). By order dated July 5, 2000, the Justice of the Peace Court dismissed Complaint I on the basis that Machulas sought the "return of a security deposit for a lease that still exists." Machulas did not file an appeal.

(3) On July 25, 2000, Machulas again filed a complaint in the Justice of the Peace Court to recover the security deposit held by

Overcamp (Complaint II)" By order dated November 16, 2000, the Justice of the Peace Court dismissed Complaint II, sua sponte, on the basis that Complaint I had been adjudicated and dismissed by the Justice of the Peace Court's order of July 5, 2000. Machulas did not file an appeal. Instead, on or about January 31, 2001, Machulas filed in the justice of the Peace Court a "motion to vacate" the November 16 dismissal of Complaint II. By order dated March 9, 2001, the Justice of the Peace Curt denied Machulas' motion on the basis that it was "improper and should be filed as an appeal in a higher court." Machulas appealed to the Court of Common Pleas.

(4) A hearing was held in the Court of Common Pleas on May 25, 2001. Thereafter, by order dated June 1, 2001, the Court of Common Pleas dismissed Machulas' appeal from the dismissal of Complaint II, on the basis that Complaint I had previously been dismissed with prejudice by the Justice of the Peace Court's order of July 5, 2000, from which no appeal was taken. Machulas then appealed to the Superior Court.

(5) After briefing, the Superior Court, by order dated October 30, 2001, affirmed the June 1 judgment of the Court of Common Pleas. By orders dated November 14, 2001, the Superior Court denied Machulas' motions for reargument. This appeal followed.

(6) Overcamp has filed a motion to affirm on the basis that it is manifest on the face of Machulas' opening brief that the appeal is without merit. After a careful review of the record and the parties' respective positions on appeal, it is manifest to the Court that the motion to affirm should be granted. We find no error or abuse of discretion in the Superior Court's affirmance of the Court of Common Pleas' dismissal of Machulas'appeal from the justice of the Peace Court. Indeed, we have concluded that this appeal should be affirmed based upon the well-reasoned decision of the Superior Court.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is hereby AFFIRMED.

BY THE COURT:

APPENDIX

OPINION B

THE SUPERIOR COURT OF THE STATE OF DELAWARE

SUPERIOR COURT OF DELAWARE

DOCKET C.A.
01A-06-001 HDR

RECONSIDERATION

L.P. MACHULAS – APPELANT

vs

ALVIN OVERCAMP – APPELLEE

SUBMITTED: October 30, 2001
DECIDED: November 14, 2001

Before JUDGE H. RIDGELY

Dear Mr. Machulas:

I have reviewed your letter of November 9, 2001 in which you request that the decision of October 30, 2001 be reconsidered and vacated. In essence, you have requested reargument which is governed by Superior Court Civil Rule 59. Under this rule, reargument will be denied unless the Court has overlooked a controlling legal precedent or legal principles, or unless the Court has misapprehended the law or facts such as would affect the outcome of the decision.

After careful consideration of your letter, I am not persuaded that reargument should be granted here. Accordingly, your application is ***DENIED***.

IT IS SO ORDERED.

SUPERIOR COURT OF DELAWARE

DOCKET C.A. 01A-06-001 HDD

APPEAL FROM COURT OF COMMON PLEAS

L.P. MACHULAS – APPELLANT

vs

ALVIN OVERCAMP – APPELLEE

SUBMITTED: August 10, 2001
DECIDED: October 30, 2001

Before **JUDGE H. RIDGELY**

ORDER

This 30th day of October, 2001, upon consideration of this appeal and the record in this case, it appears that :

(1) Appellant L.P. Machulas has appealed the Order of the Court of Common Pleas which dismissed his appeal from Justice of the Peace Court Number 16. Appellant's complaint sought to recover a security deposit from Appellee, Alvin Overcamp. Overcamp is the former landlord of Machulas. The Justice of the Peace dismissed Appellant's complaint based upon the *res judicata* doctrine because the complaint was substantially identical to another that had previously been dismissed with prejudice. Machulas moved to vacate that Order and his motion was denied. The Court of Common Pleas upheld that ruling and dismissed the appeal. Upon Overcamp's Rule 11 motion the Court of Common Pleas held that its order prohibited any civil action with regard to the adjudicated claim. This appeal followed.

(2) Machulas filed his first complaint in Justice of the Peace Court No. 16 on April 25, 2000. On July 5, 2000, that complaint was dismissed with prejudice. Machulas requested a transcript but did not perfect an appeal in the Court of Common Pleas of the dismissal order. Instead, he filed another complaint with the Justice of the Peace Court on July 27, 2000 which set out the same claim. A judgment dismissing that second complaint was entered on November 16, 2000, because the case had been dismissed on July 5. Machulas requested a transcript but did not perfect an appeal of this judgment either. On January 31, 2001, Machulas filed a Motion to Vacate Decision. On March 9, 2001, the Justice of the Peace denied the motion. Machulas filed an appeal from the March 9, 2001 Order to the Court of Common Pleas. Overcamp then filed a Motion to Dismiss which was granted by the Court of Common Pleas after it found that the underlying claim had been previously dismissed with prejudice by an order from which no appeal was taken.

(3) Upon an appeal from the Court of Common Pleas, a civil action is "reviewed on the record and shall not be tried de novo." On such an appeal, this Court will not disturb findings of fact if those findings are "supported by the record and are the product of an orderly and logical deductive process." This Court has the duty to review the sufficiency of the evidence and to test the propriety of the findings below. Under Delaware law, one must meet five elements to bar a claim based on *res judicata*. The party seeking to bar the claim must establish that the court that made the prior adjudication had jurisdiction, that the parties in the present action are either the same parties or in privity with the parties from the prior adjudication, that the cause of action or issues decided are the same as those raised in the prior adjudication, that the issues in the prior action were decided adversely to the plaintiff's contentions in the present action, and that the prior adjudication was final.

(4) This appeal stems not from the original complaint, but from Machulas' motion to vacate the dismissal of his second complaint. The Court of Common Pleas correctly concluded that the matter was previously dismissed and that no appeal was taken from that Order. Because the doctrine of *res judicata* bars any further proceedings on that cause of action, the Order of the Court of Common Pleas is free of legal error.

NOW, THEREFORE, IT IS ORDERED that the judgement of the Court of Appeals is ***AFFIRMED***.

_____

President

Judge

APPENDIX

OPINION C

THE COURT OF COMMON PLEAS

COURT OF COMMON PLEAS OF DELAWARE

DOCKET C.A. NO 01-03-0134AP

APPEAL FROM JP #16 COURT

SUBMITTED: April 6, 2001

DECIDED: May 25, 2001

Before JUDGE M.C. TRADER

AND NOW, TO-WIT, on this 25th day of May, 2001, this case having come before the Court on appeal from the Delaware Justices of the Peace Court #16 for hearing and consideration of separate Motions, both being dated April 6, 2001, and made by the Defendant-Appellee, ALVIN OVERCAMP, first to dismiss the appeal and secondly for sanctions against Plaintiff-Appellant, LEONARD P. MACHULAS, and the Court finding as follows:

A. That the underlying claim of the Plaintiff-Appellant, LEONARD P. MACHULAS, related to a security deposit on a rental unit at 1601 North Wilson Avenue paid by him to Mr. Overkemp in or about June 1994, that said underlying claim had been dismissed with prejudice by Order dated July 5, 2000 in the Delaware Justices of the Peace Court #16 in Case No. J0005036616, from which no appeal was taken.

B. That the subsequent civil action filed against Mr. Overkamp by Mr. Machulas on July 25, 2000 in that same Court, that being Case No. J0008023816, was based on the same cause of action as the earlier case (Case No. J0005036616) which had been finally decided adversely to him; and that as a consequence the Court below dismissed the later case by Order dated November 16, 2000.

C. That the Court below therefore committed no reversible error by its Order dated March 9, 2001 denying the Appellant's Motion dated January 31, 2001 which sought to Vacate that dismissal Order dated November 16, 2000.

D. That in refilling his claim as a new suit after it had been finally decided against him, Mr. Machulas maintains that he relied upon advice from Court personnel, that there is no evidence to the contrary, and that the Court therefore finds that he did not act willfully or contemptuously.

NOW, THEREFORE, IT IS ORDERED as follows:

1. The appeal of the Plaintiff-Appellant is hereby dismissed with prejudice, with judgment for costs to be entered against Plaintiff-Appellant, LEONARD P. MACHULAS.

2. The application for an award against Plaintiff-Appelant, LEONARD P. MACHULAS, is hereby permanently ordered to take no action of any kind against Alvin Overkamp with respect to any alleged claims concerning a security deposit for a rental unit at 1601 North Wilson Avenue, Dover, Delaware. This Order shall prohibit any curl action of every kind with regard to such claims.

IT IS SO ORDERED.

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JUDGE